



The Commission voted by ballot 10 yes – 0 no to recommend approval of **RESOLUTION T-03-03**.

#### IV. PUBLIC HEARING

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Mark Hermodson seconded and the motion carried by voice vote.

Jack Rhoda read the meeting procedures.

##### A. ORDINANCE AMENDMENTS

1. **ORDINANCE AMENDMENT #35 (RURAL OUTDOOR SIGN SECTION):** Minor corrections to the rural outdoor sign section of the UZO.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of approval.

The Commission voted by ballot 10 yes – 0 no to recommend approval of **ORDINANCE AMENDMENT #35 (RURAL OUTDOOR SIGN SECTION)**.

2. **ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT):** Includes proposed changes to: drive-thru message boards, 50' special setback along South River road, and a minor correction to the RV park section regarding floodway.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey recapped the history of these changes and read the staff report with recommendation of approval.

Mark Moore, 4736 Division Road, West Lafayette, stated that he was against this amendment and did not understand why the setback was changing. He said that at the Vision 20/20 meetings, they were assured that their properties would not be changed or rezoned. He mentioned that he was never notified of this change nor did he see a public notice anywhere. He said that he was against this because they were taking a portion of his property and making it unusable.

James Hawley stated that the Resolution for Scenic Byways requires that the byways be protected from outdoor advertising signs. He explained that because North River Road already has a special setback it is already protected from outdoor advertising signs. He said that from 231, South River Road to Division Road and 875 West to Ross Hills Park are not currently protected from outdoor advertising because they do not have a special setback. He stated that by creating a special set back it takes it out of the normal setback category and automatically protects it from any outdoor advertising signs. He stressed that it does not change the zoning

Mark Moore stated that if the existing building setback changes from 30-40 feet, if that had anything to do with signs.

James Hawley clarified that the existing setback is already 40 feet along Division and South River Roads.

Mark Moore pointed out that the report stated that it would add 10 more feet to the existing 40-foot setback for signs

James Hawley stated that it is a building setback, but by placing it in the special setback category it then prohibits outdoor advertising signs.

Mark Moore asked for confirmation that the building setback for his property would be increase.

James Hawley responded affirmatively.

Mark Moore state that he was against that.

Elizabeth Boes, 5744 Division Road, West Lafayette, asked if more outdoor advertising signs were expected. She stated that she has lived there a long time and has never seen excess signs in the area. She asked why signs were needed.

James Hawley stated that because of the new ordinance allowing rural outdoors signs in agricultural districts, these signs are explicitly allowed on these roads and they were not before. He explained that since they are now allowed, in order to complete the application for the Scenic Byways, they have to be restricted by another means. He said that in order to restrict them they would have to be in the special setback category. He mentioned that if a 50-foot setback is not acceptable, he suggested a 45-foot setback. He stressed that it cannot be 40, 60 or 30 feet because those are not considered special setbacks.

Steve Schreckengast asked for clarification on where signs would have to be placed.

James Hawley stated that question was not applicable. He reiterated that they were creating a road with a special setback, which by definition in the ordinance, protects it from outdoor advertising signs. He said that it does not prohibit on-site advertising signs.

Steve Schreckengast asked how close a building could be built to the road.

James Hawley stated that the current setback was a Thoroughfare Plan setback of 40 feet and they are recommending a not-standard setback of 50 feet.

Stuart Boehning asked why this had to be done.

James Hawley reiterated that if it is not a special setback then the rural outdoor sign ordinance allows outdoor advertising along the entire road.

Jeff Kessler asked about the notification process for this issue.

James Hawley stated that ordinance amendments or text changes do not have to be posted nor provide notice to property owners. He informed the Commission that the law states that the legal advertisement in the newspaper is sufficient notice.

Jeff Kessler suggested continuing this amendment for 30 days, to the July 16, 2003 meeting, in order to allow the property owners to come into the office and ask questions.

Jeff Kessler moved to continue **ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT)** to the July 16, 2003 Area Plan Commission meeting Steve Schreckengast seconded the motion.

Steve Schreckengast asked for a show of hands from the audience indicating who was present for this case. He stated that he would like to hear from the rest of individuals present, their views on this case.

Jeff Kessler moved to withdraw the motion for continuance of **ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT)**. Steve Schreckengast seconded the motion.

Gary Schroeder mentioned James Hawley's earlier suggestion of changing the setback to 45 feet instead of 50. He suggested a setback of 41 feet, because it would still be considered part of the special setback category.

Tory Moore, 4736 Division Road, West Lafayette, IN, stated that a lot of the homes in question sit right on the road and if 10 feet are taken away that would interfere with the septic systems. She asked that if there were problems with the septic systems, if they would be allowed to have them fixed because the section that no longer belongs to the property owner.

Jack Rhoda stated that this would not affect the septic systems at all.

Sallie Fahey stated that this is not a taking of the road or property. She said that this would not change the acreage of any of the properties, it would only change how close they were allowed to put a building to the road. She explained that even though there could not be a new building in that setback, they could still have the septic system or driveway.

Tory Moore asked for confirmation that if the property owners had to work on their septic system or move it, they could still do so with in that area.

Sallie Fahey responded affirmatively.

Pat Cunningham, 7203 East Greenview Drive, Battleground, IN, asked how many properties would become non-conforming due to this change in setback. He mentioned that if a building needs major reconstructing, has major damage, or needs a building permit then they will not be able to rebuild in the same spot.

Jack Rhoda stated that the current setback is 40 feet. He said that if the setback was changed to 41 feet, that could put some homes into a non-conforming status. He mentioned that could put limits on the use or rebuilding of the homes.

David Williams pointed out that the option of applying for a variance was still available.

Mark Hermodson and James Hawley stated that was correct.

Steve Schreckengast asked what the distance of the road was.

James Hawley stated that it would affect approximately 7.5 miles. He said that staff has looked at aerials, but did not have that documentation with him. He pointed out that buildings that are already in the setback are non-complying not non-conforming. He said that the difference is how the ordinance treats them. He stated that using a set back of 41 feet could be a solution, but also presented problems, mathematically, for some.

Steve Schreckengast asked how many more houses would be impacted if the set back was increased 10 feet.

James Hawley stated that he did not have the exact number, but estimated that very few would be impacted by an additional 10 feet. He stated that he would review that on the aerials and present the exact number to the Commission.

Steve Schreckengast asked if the septic field and well were permitted in the setback.

James Hawley replied affirmatively.

Steve Schreckengast asked if rebuilding or remodeling would be allowed in the setback.

James Hawley replied that building would not be allowed in front of the line. He mentioned that inside the building could be remodeled, and additions could be in the back of the building outside the setback.

Steve Schreckengast asked if that could be done without any variances.

James Hawley responded affirmatively.

Jeff Kessler moved to continue **ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT)** to the July 16, 2003 Area Plan Commission meeting Steve Schreckengast seconded and the motion carried by voice vote.

David Williams stressed that the goal of this amendment is to restrict signage, not to punish property owners.

## B. REZONING ACTIVITIES

1. **Z-2125—MANN PROPERTIES, LLP C/O TIM STEVENS (A TO R1B):** Petitioner is requesting rezoning of a 76.63 acre tract for a proposed 244 lot single-family subdivision located at the southeast corner of CR 450 S and Concord Road, Wea 15 (SE) 22-4. CONTINUED FROM THE MAY MEETING AT PETITIONER'S REQUEST.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

James Hawley informed the Commission that a representative of Mann Properties has just requested a continuance to the July 16, 2003 meeting in order to provide information to interested parties.

Jeff Kessler moved to withdraw the above motion. Mark Hermodson seconded the motion.

Jeff Kessler moved to continue **Z-2125—MANN PROPERTIES, LLP C/O TIM STEVENS (A TO R1B)** to the July 16, 2003 Area Plan Commission meeting. Mark Hermodson seconded and the motion passed by voice vote.

2. **Z-2127—RONALD D. KOEHLER & CINDY KAY MARSH (R1 TO NB):** Petitioners are requesting rezoning of a 10.0 acre tract located on the west side of Dayton Road, approximately 300' south of the railroad tracks in the Town of Dayton, Sheffield 9 (NW) 22-3. CONTINUED FROM THE MAY MEETING AT PETITIONERS' REQUEST.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of denial.

James Hawley presented slides of the zoning map and aerial photo.

Daniel Teder, PO Box 280, Lafayette, IN, stated that the petitioner was present. He recapped the supporters that were heard at the May 21, 2003 meeting. He explained that the atmosphere of the town was like stepping into a time capsule. He said that there would not be any tax dollars or donations involved with this project and all funding would come from Ron Koehler and Cindy Marsh. He presented a display board and pictures to the Commission. He said that it would take 10-15 years to complete this project, with most of the buildings being relocated from throughout Indiana. He pointed out that the petitioners own all of the surrounding land. He stated that they plan to sell antiques from each of the buildings, specific to the type of building (grocery related antiques will be sold from the grocery store etc.) He stressed that this will be an asset to the community and the Dayton Town Board Supports this petition. He suggested placing a covenant that would stay with the land, which states that when this is no longer a historic town, or antiques are no longer sold, then it land will revert back to a residential zone. He asked for approval.

David Linenger, 764 Shady Lane, Dayton, IN, stated that he was in favor of this petition. He said that the Town of Dayton incorporated a few years ago in order to have control over the destiny of the town. He mentioned that in 1995 it was thought that south of State Road 38 should be reserved for large tract homes. He said that type of development no longer belongs in Dayton. He pointed out that one of the main functions of the Town Board was to change zoning issues. He asked for approval.

Tammy Lineback 7315 Wesleyan Drive, Dayton, IN, stated that all of the Koehler property is well kept. She said that the Koehler's are always striving to make Dayton a pleasant place. She mentioned many enhancements in Dayton that Koehler's have promoted and/or financed. She said that her opinion is that this is an acceptable use of the land. She stated that this project would provide beauty and history for Dayton community as well as maintain the small town atmosphere.

Jamie Braton, 736 Walnut Street, Dayton, IN, stated that the Koehler's have always tried to preserve the history of Indiana and have already preserved a general store. He said that the intention is to keep the feel of an old-style town.

Robert Bowman 1091 Republican Street, Dayton, IN, stated that the Town Board recommended this project without looking into it properly. He said that the proper thing to do would be to follow the staff's advice and use the planned development process instead of an NB zone. He said that the intent of the 1995 committee was to keep all the commercial zones along the interstate. He mentioned that a few years ago there were some other projects that were interested in this area and were turned down because of traffic issues. He said that traffic has already increased due to the expansion of the church. He pointed out that as per the agreement with the City of Lafayette, the sewer and septic only go so far south. He asked for denial.

Dan Teder reiterated that the Koehler's own over 10 acres surrounding this area. He asked Ashley Stevenson for his opinion regarding the Dayton Town Board's recommendation of this project.

Ashley Stevenson stated that there was a discussion of this issue at the Dayton Town Board meeting. He said that the Board members are all familiar with the Koehler's and their contributions to the community. He stated that the Board does view this project as a welcome addition to the Town and as a way to control the area. He mentioned that there might be more increased traffic, but there would also be increased traffic if 110 acres were consumed with a housing development. He said that the Dayton Town Board would like to see this approved.

Steve Schreckengast asked if the vote at the Town Board meeting was unanimous.

Ashley Stevenson stated that to his recall, the vote was a voice vote, which he thought was unanimous. He said that only when he saw the transcript of the meeting minutes did he realize that one member abstained from voting.

Steve Schreckengast asked for clarification that the vote from the Area Plan Commission would serve as a recommendation only and the Town Board of Dayton would have the final vote.

Several members replied affirmatively.

Mark Hermodson stated that he did not have any problems with the project and agrees that the Koehler's are good citizens who have made many positive contributions to the community. He said that the issue is the zone and what can go into a zone. He pointed out that it does not matter what covenants are attached to a zone, lawyers can easily have covenants removed. He stated that he couldn't support neighborhood business for this project. He said that this project is perfect for a planned development, which will also protect it.

Jack Rhoda asked Dan Teder if the petitioner considered a planned development for this project. He agreed that a planned development was the best solution for this project.

Dan Teder pointed out that in the past the Commission has requested planned developments from developers who have not agreed to the request and the Commission still approved the petition.

Mark Hermodson stated that was not entirely true. He said that in the one circumstance he can remember, the Commission did not have a choice. He explained that in that one circumstance there was not available sewer in that area and therefore a PD would not have been possible. He stated that a PD is definitely possible in this case.

Dan Teder agreed with that statement and explained that he was referring to a trust factor that the Commission went with. He informed the Commission that he and the petitioner met with Margy Deverall to discuss the possibility of a planned development. He explained that since this was going to be a 10-15 year project for the Koehler's, the planned development would be too difficult to work with and too restrictive. He said that they have a basic layout of the project, but because of the length of time it will

take, will more than likely change. He said that the covenant is favorable to the Town of Dayton and the Board is behind the project.

Steve Schreckengast asked for confirmation that this is a 15-year project that depends on buildings becoming available and landscaping plans being revised to accommodate the buildings.

Dan Teder replied affirmatively.

Steve Schreckengast asked how a PD would work and if every time a building became available, the petitioner would have to come in for approval or revision.

Dan Teder stated that the staff believes that a PD would work, but the Koehler's believe it will be too restrictive. He said that he believes that the Koehler's will keep their word and revert it back to residential if necessary.

Steve Schreckengast stated that he has know the Koehler's for along time and believes that the Commission should approve the recommendation and send it to the Dayton Board for the final vote.

The Commission voted by ballot 7 yes – 3 no on **Z-2127-RONALD D. KOEHLER & CINDY KAY MARSH (R1 TO NB).**

Yes Votes

John Knochel  
Ashley Stevenson  
Gary Schroeder  
Jack Rhoda  
David Williams  
Steve Schreckengast  
Jeff Kessler

No Votes

Mark Hermodson  
Karl Rutherford  
Stuart Boehning

Jack Rhoda stated that this case will be heard at next month's meeting due to a lack of a majority vote.

3. **Z-2129—R. GREGG SUTTER (Abingdon Rural Estate) (AW TO RE):** Petitioner is requesting rezoning of an 11.252 acre tract located west of CR 725 W, and  $\frac{3}{4}$  of a mile north of Division Road, Shelby 24 (NE) 23-6. CONTINUED FROM THE MAY MEETING DUE TO AN INCOMPLETE LEGAL DESCRIPTION.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of approval.

James Hawley presented slides of the zoning map, aerial photo, and sketch plan.

Bob Gross, 420 Columbia Street, Ste 100, Lafayette, IN, stated that the petitioner was and available to answer questions. He explained that this property was at the back of the private drive, an odd shape tract and avails itself to division.

Suzanne Collins 7602 Amanda Lane, West Lafayette, IN, pointed out that the staff report says that the lots are similar in size to the existing development. She said that the average of the lots is 6.54 acres, which is only half as large as the existing lots. She stressed that the lots are not similar in size at all. She stated that she was concerned about the environmental impact of the new development. She mentioned that the soil work would not be submitted until after the rezone has been approved. She asked how they would know if these lots would be acceptable for septic and well. She mentioned that the map did not indicate the ravine or how the land falls away. She pointed out that there is not a lot of available area to build on any of these lots because of the ravine and steep incline. She referred to the staff report, which stated that until now, no further division of the land was possible. She asked why it was not possible. She stated that she was surprised to find out that this case was continued from the May 21 meeting, because there was no notice put up until just 10 days ago. She said that there was also no notification of the April 25 sketch plan meeting or the May 16 filing.

Kenny McCleary, 942 Chapstow Lane, West Lafayette, IN, stated that he was the owner of the one home in the current development. He said that he is not in total opposition of the development. He explained that when he first moved in to the development, Gregg Sutter told him that there was the possibility of subdividing the area. He informed the Commission that the restrictive covenant specifically notes that Gregg Sutter reserved the right to develop no more than 3 parcels. He stated that his main concern is that this seems to be in conflict with the restrictive covenant and asked if he has been the recipient of the most recent version of that covenant. He concurred with the earlier concern of the area being acceptable to septic and well. He mentioned that the smaller lots might not have sufficient square footage to provide a septic system. He informed the Commission that due to the soil results from his land; the required septic system for his home is extensive. He pointed out that the current covenant has restrictions for setbacks and due to the size of the lots, the slope of the land and the drop off into the ravine, he asked if those setbacks would be feasible. He reiterated that he is not opposed to dividing this land, so long as it is consistent with the original covenant. He said that if there have been changes to that covenant and a subsequent lack of communication, then he is opposed to the petition.

Dan Collins, 7602 Amanda Lane, West Lafayette, IN, stated that he and his family moved out of Wabash Township one year ago and does not want Shelby Township to become like Wabash Township. He pointed out that the Vision 20/20 taskforce goals are to preserve and restore a variety of natural areas, protect diversity of native wildlife and plant species, minimize further fragmentation of natural areas and wildlife corridors, minimize human wildlife conflicts, provide balanced housing opportunities with appropriate housing for all residents, stimulate expanded and balanced public participation, setting goals and objectives for growth and broadening the base of the planning processes. He mentioned that this vision is supported by over 100 of the community leaders, including KD Benson. He suggested placing a moratorium on further reparcelizations. He informed the Commission that he and his wife spent 32 years planning for their dream home. He said that they have a nice home, in a good area complete with wildlife. He complemented the Bennetts for maintaining the vast openness. He said that he would not be opposed to subdividing one lot into two, in order to keep in line with the other homes. He stated that he does object to a precedent setting reparcelization that would destroy the openness of the area.

R. Gregg Sutter, 308-1 Main Street, Lafayette, IN, stated that he was not aware of all the people that were opposed to this petition. He asked for a continuance to the July 16, 2003 meeting in order to have an opportunity to talk to the people in opposition.

Jeff Kessler moved to continue **Z-2129—R. GREGG SUTTER (Abingdon Rural Estate) (AW TO RE)** to the July 16, 2003 Area Plan meeting. Mark Hermodson seconded the motion.

Mark Hermodson stated that he would like to hear what the restrictive covenants that were given to Kenny McCleary, say. He mentioned that the gravel drive bothers him.

Steve Schreckengast pointed out that several times the speakers referred to this as a reparcelization. He informed the audience that this is petition falls under the new rural estate subdivision ordinance. He explained that the sliders were deleted to create this ordinance and there are a lot more restrictions and requirements than the sliders or parcelizations had. He reiterated that this is a relatively new ordinance and suggested that anyone interested should educate himself or herself on this ordinance. He stressed that there was a lot of additional restrictions and requirements with this ordinance.

The motion passed by voice vote.

4. **Z-2130—CAYMAN PROPERTIES, LLC (I3 TO I2):** Petitioner is requesting rezoning of Lot #22 of Olympia Subdivision, located at the northwest corner of Olympia and Concord Road, Lafayette, Wea 3 (SW) 22-4.

Jeff Kessler moved to hear and vote on the above-described requests. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of approval.

James Hawley presented slides of the zoning map and aerial photo.



Dan Teder stated that this is a rezone for a less intensive use. He mentioned that other lots in the surrounding areas have been recently rezoned for industrial use. He informed the Commission that this site was going to be used for a tire repair and auto body shop. He stated that all utilities were present and there would be no outside storage. He concurred with the staff report and asked for approval.

The Commission voted by ballot 10 yes – 0 no to recommend approval of **Z-2130—CAYMAN PROPERTIES, LLC (I3 TO I2** to the Lafayette City Council.

5. **Z-2131—ABBINGTON DEVELOPMENT, LLC (LINDBERG VILLAGE PLANNED DEVELOPMENT)(R3 AND NB TO PDRS):** Petitioner is requesting rezoning of 31.95 acres for a 146 lot single-family residential planned development located west of Klondike Road between CR250N and Lindberg Road, Wabash 10 (SE) 23-5.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional approval contingent on the following:

Meeting all requirements of *UZO 2-27-10* for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. all sheets (other than preliminary plat) that make up the approved Preliminary Plan;
2. a final plat per *UZO* Appendix B-3-2 as applicable;
3. all residential units have a 2-car garage, bound by the adopted covenants and restrictions and enforceable by the Area Plan Commission and/or Building Commissioner;
4. Post Office and 911 approved street names;
5. a recorded restriction on commercial lot(s) at Lindberg and Klondike Roads stating that 100% of the bufferyard requirement between the residential planned development and said commercial property will be installed on the commercial property, to take place when the commercial lot(s) are platted or developed; and
6. a recorded amendment to the Lindberg Village Home Owners Association covenants & restrictions concerning future use of lot 462 as public right-of-way .

James Hawley presented slides of the zoning map, aerial and sketch plan.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, asked that the Commission put the next case on the floor so that the two cases could be discussed together, but still voted on separately.

7. **Z-2132—ABBINGTON DEVELOPMENT, LLC (NB TO GB):** Petitioner is requesting rezoning of 13.23 acres located on the northwest corner of Klondike and Lindberg Roads, Wabash 10 (SE) 23-5

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of denial. She read into the record the following letter:

Patricia A. Mason, 1323 N 350 West, West Lafayette, IN, in opposition of the petition.

James Hawley presented slides of the zoning map and aerial photo.

Joseph T. Bumbleburg thanked the Commission for allowing both cases to be heard at once. He explained that since the 31-acres of the PD was originally proposed, the NB area as been reduced to 7 acres and the R3 area has lost 25-acres. He stated that the utilities are all available, the street widths are appropriate, the bufferyards and berms are in place and this is an artful use of the planned development process. He said that the reduction of density reflects sensitivity to the market and community needs. He mentioned that the developer of this project has a good reputation of being true to his word and successful. He pointed out that the NB area has not been successful as NB for three years and directly

across the street is a GB area. He explained that GB would not invade this area because it is already present across the street. He stated that in 2000, 21.86 acres were rezoned to NB and this request is to reduce that to 13.23 acres of GB. He informed the Commission that the developer is prepared to donate 2 acres for public use, which will reduce the GB area even further. He reiterated that this would be a 50% reduction of the commercial area and a 100% reduction of the multi-family area. He stressed that this is an excellent trade-off for the community. He asked for approval of both petitions.

Steve Clevenger, 4011 Black Forest Lane, West Lafayette, IN, stated that two years ago he spoke in favor of the NB and against the R3. He said that he was in favor of the single-family residential planned development and he commended the lower density development. He stated that he still opposed the GB zone because a neighborhood business would fit better with the existing single-family residential areas.

Derrin Sorenson PO Box 6026, Lafayette, IN, stated that three years ago an R3 made economical sense for this area, but that has changed because of all the additional multi-family that has been put up with in one mile of this. He explained that they have reduced the commercial area by 50% due to different request that would require either a special exception or a variance. He stated that they would like to put the GB across the street from the existing commercial area in order to avoid having to get special exceptions or variances. He pointed out that they have set aside 2 acres for public use but do not know what that public use will be at this time. He said that the goals were to give back to the community, reduce the densities and relieve the burden from the R3. He mentioned that this is not motivated by profit because he has turned down offers to sell the area as R3. He informed the Commission that if the commercial portion of the request does not pass then both petitions will be withdrawn because one does not make sense without the other.

Craig Decamp 2041 Klondike Road, West Lafayette, IN, stated that he agreed with the letter from Patricia Mason. He pointed out that the area that is already zoned GB also contains three single-family homes, in between the businesses. He informed the Commission that earlier this year an unknown developer approached him and his neighbors about selling their homes. He stated that he is happy where he is and would like to see it remain neighborhood business. He mentioned that there are rumors that a gas station and/or convenience store were planned right across the street, when there is already one down the road. He stated that the traffic in the area is already increasing. He reiterated that he agreed with the letter from Patricia Mason.

David Kimball, 2061 Klondike Road, West Lafayette, IN, stated that he agreed with Craig Decamp and the letter from Patricia Mason. He said that he concurred with the staff report and their recommendations. He stated that he couldn't see the purpose of expanding the GB beyond what it is now because there is no demand.

Frances Gaylord, 2021 Klondike Road, West Lafayette, IN, stated that she has one of the residences next to the pole barn, which is now general business. She pointed out that there is 11 acres total and even if 2 acres are held out for a possible fire department, then they will still have to deal with general business. She stated that at the beginning the residents trusted that this plan would be for housing. She presented pictures to the Commission showing the effects of the overbuilding in the area on the environment. She said that the residents are dealing with a lot of water and have even lost a tree. She stated that she agreed with the letter from Patricia Mason. She pointed out that even though there is business across the street, it is not the type of business where there is traffic in and out all day long. She mentioned that a gas station would get very heavy traffic. She pointed out that the Village Pantry on Union Street frequently is robbed and she does not want that element in her neighborhood. She stated that there is still not a fire department to handle all the growth right now. She said that this has not been handled properly and is opposition to the entire development.

Steve Schreckengast asked if a Village Pantry could be in a NB zone.

Jack Rhoda replied affirmatively.

Joseph T. Bumbleburg hypothetically asked if the people in opposition would prefer to have the R3 remain. He reiterated that this proposal reduced the commercial area by 50% and the R3 by 100%.

Steve Schreckengast mentioned that Derrin Sorenson and his business partner have been very generous in donating land to the community. He said that he trusts the work and reputation of these developers and believes this is a fair trade-off for reducing the business and eliminated the R3. He stated that he supported these petitions.

The Commission voted by ballot 10 yes – 0 no to recommend approval of **Z-2131—ABBINGTON DEVELOPMENT, LLC (LINDBERG VILLAGE PLANNED DEVELOPMENT)(R3 AND NB TO PDRS)** to the Tippecanoe County Commissioners.

The Commission voted by ballot 7 yes – 3 no on **Z-2132—ABBINGTON DEVELOPMENT, LLC (NB TO GB).**

Yes Votes  
 Jack Rhoda  
 Mark Hermodson  
 Stuart Boehning  
 Gary Schroeder  
 John Knochel  
 David Williams  
 Steve Schreckengast

No Votes  
 Ashley Stevenson  
 Karl Rutherford  
 Jeff Kessler

Jack Rhoda stated that this case would be heard at next month's meeting due to a lack of a majority vote.

C. SUBDIVISIONS

1. **S-3316—LAKESHORE SUBDIVISION, PHASE 2 (MAJOR-PRELIMINARY):**  
 Petitioner is seeking primary approval for a 1-lot commercial subdivision on 4.39 acres, located north of US 52, approximately 1/4 mile west of Morehouse Road, in Wabash 2 (NE) 23-5. CONTINUED FROM THE MAY MEETING.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey stated that the petitioner has requested permission to bond. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

A. Conditions

**CONSTRUCTION PLANS** – The following items shall be part of the Construction Plans application and approval:

1. The required bufferyard shall be shown with the standard plant unit details. The bufferyard shall be installed as part of required public improvements.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

2. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
3. All required building setbacks shall be platted.
4. The street addresses and County Auditor's Key Number shall be shown.
5. At least one of the two streets in Paramount-Lakeshore Subdivision (Paramount Drive or Genoa Drive) shall be built to US 52 and accepted for maintenance.

James Hawley presented slides of the zoning map, aerial photo and preliminary plat.

Joseph T. Bumbleburg stated that this was a one lot commercial subdivision that is zoned NB. He stated that there is a conflict with condition #5. He said that that the road in question cannot have the requirement that it be accepted for maintenance because it is not a part of this subdivision. He suggested that one solution to the problem would be to change the language of the condition to exclude "finally platted". He explained that to get a road accepted for maintenance is a long and complicated process. He said that the road is about 3 weeks from being useable and to get it accepted for maintenance could delay the start of work on this lot until the fall and the entire building season would be lost.

Pat Cunningham clarified that he was a developer in a different portion of this development, but does not have any financial interest in the lot currently under discussion. He stated that condition # 5 eliminates the possibility of the developer to bond to file a final plat. He said that the developer would not be able to

obtain a building permit, even though there will be a useable road there shortly. He recapped the entire process and timeline of getting a road accepted for maintenance. He reiterated that the process of being accepted for maintenance is very lengthy and can take up to 6-8 months. He suggested that changing the condition from "accepted maintenance of the road" to "final platting of the road" would allow bonding to take place and building permits to be issued.

Sallie Fahey stated that the staff's concern is that if bonding alone is enough for this section of the road, once it is bonded and the final plat is recorded, then the building permit can be obtained. She said that the bond could go on for 2 years, and the business could be operating with the only access being through the residential subdivisions off Moorhouse Road. She informed the Commission that when the adjoining roads were rezoned there were several months of negotiations to allow the commercial areas to have access to each other. She said that the negotiations also ensured that the residential areas and commercial areas did not both solely use the subdivision streets. She stated that without condition #5 there is a possibility that a business on this lot could have it's only access through residential subdivisions.

Steve Schreckengast asked Pat Cunningham if he had a suggestion to protect that from happening.

Pat Cunningham stated that the road is currently under construction and will be usable very soon.

Steve Schreckengast asked if it was possible to place a condition that no building permits will be issued until the road is completed.

Pat Cunningham stated that would be acceptable because the road should be completed in approximately three weeks.

Sallie Fahey stated that it would be at least 30 days before the final plat could be presented. She said that the USO states that a road technically does not exist until it has been accepted for maintenance. She explained that the question then becomes whether a permit can be issued for a road that does not have any public maintenance.

Pat Cunningham said that the condition would have to state "final platted AND the road constructed". He explained that "platted" would require a bond, which would guarantee the public that the road will happen and "constructed" would mean that it is physically in place.

James Hawley pointed out that was not entirely true. He explained that the USO states that the bond does not bind the Commissioners to accept the road for maintenance.

Pat Cunningham pointed out that if the Commissioners are not satisfied with the road, the bond could be revoked.

Steve Schreckengast asked for confirmation that if a bond is in place, a building permit can be issued.

Sallie Fahey and Pat Cunningham responded affirmatively.

Steve Schreckengast stated that he was in favor of making a motion to amend the condition, if the language is mutually agreeable.

Jeff Kessler agreed with Steve Schreckengast.

Steve Schreckengast suggested tabling the discussion to the end of the meeting in order to give the staff time to work out new language for condition #5.

Jeff Kessler moved to table **S-3316—LAKESHORE SUBDIVISION, PHASE 2 (MAJOR-PRELIMINARY)** to the end of the agenda. Mark Hermodson seconded and the motion passed by voice vote.

2. **S-3329—MARGARET CORNELL MINOR SUBDIVISION (MINOR-SKETCH):**  
Petitioner is seeking primary approval for a 2-lot subdivision on 6.455 acres,

located on the north side of CR 200 S, a little more than 1/2 mile east of CR 900 E, in Perry 35 (SE) 23-3.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

1. Except for the approved entrances, a "No Vehicular Access" statement shall be platted along the CR 200 S right-of-way line.
2. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
3. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
4. All required building setbacks shall be platted.
5. Street addresses and County Auditor's Key Number shall be shown.

**SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:

6. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

James Hawley presented slides of the zoning map, aerial photo and sketch plan.

Paul Coutts, 1719 Monon Ave., Lafayette, IN, concurred with the conditions and asked for approval.

The Commission voted by ballot 10 yes – 0 no for conditional primary approval of **S-3329—MARGARET CORNELL MINOR SUBDIVISION (MINOR-SKETCH).**

*KD Benson joined the meeting, 9:10 pm*

3. **S-3330—RASCAL COMMERCIAL SUBDIVISION, SECTION 1, REPLAT OF LOT 4 (MINOR-SKETCH):** Petitioner is seeking primary approval for a one lot subdivision on 7.884 acres, located at the east end and on the south side of Rascal Drive, in the City of Lafayette, Wea 03 (NE) 22-4.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

1. All existing easements, including the 15' utility easement adjacent to Rascal Drive, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
2. All required building setbacks (including the setback from the Flood Plain) shall be platted.
3. The Regulatory Flood Elevation and Boundary for the Elliott Ditch Flood Plain shall be shown. It shall also be described and certified as specified in Unified Zoning Ordinance, Section 2-26-17.
4. The street address and County Auditor's Key Number shall be shown.

James Hawley presented slides of the zoning map, aerial photo and preliminary plat.

Paul Coutts explained that this was originally platted as a cul-de-sac and instead they would like to add the smaller lot to the larger lot. He asked for approval.

The Commission voted by ballot 11 yes – 0 no for conditional primary approval of **S-3330—RASCAL COMMERCIAL SUBDIVISION, SECTION 1, REPLAT OF LOT 4 (MINOR-SKETCH).**

4. **S-3333—MITHOEFER SUBDIVISION (MINOR-SKETCH):** Petitioners are seeking primary approval for a one lot subdivision on 3.4 acres, located on the south side of

CR 700 N, between Colburn and East County Line Road, in Washington 24 (NE)  
24-3.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

1. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
2. All existing and required easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
3. The overhead power lines that serve the buildings to the south must either be relocated prior to final plat approval, or a utility easement must be shown on the final plat.
4. The 30' wide access and utility easement shown on the sketch plan must be created and noted on the final plat.
5. All required building setbacks (including from the FP boundary) shall be platted.
6. The Regulatory Flood Elevation and Boundary for the tributary of Sugar Creek Flood Plain shall be shown. It shall also be described and certified as specified in Unified Zoning Ordinance, Section 2-26-17.
7. The street addresses and County Auditor's Key Number shall be shown.

James Hawley presented slides of the zoning map, aerial photo and sketch plan.

Stanley Mithoefer, 8100 W 200 South, Delphi, IN, stated that they have improved the farmstead by replacing the burned out farmhouse with a mobile home, which houses a tenant. He informed the Commission that his son has also built a home on this farm. He explained that the reason for this subdivision is that this will be the third residence on farm. He stated that the same entrance would be used. He mentioned that the salt test has already been done and they are in the top 10% for percolation and although the first two wells were not very deep, they have good water. He stated that he has been working with Cinergy to bury part of the power line and concurs with the easement for the power line. He explained the layout of the land in order to demonstrate why the 3.5-acre lot will work as an easement. He concurred with all the conditions and asked for approval.

The Commission voted by ballot 11 yes – 0 no for conditional primary approval of **S-3333—MITHOEFER SUBDIVISION (MINOR-SKETCH)**.

5. **S-3334—ARBOR CHASE BY THE LAKE & THE VILLAS (MAJOR-PRELIMINARY):** Petitioner is seeking primary approval for a 298-lot single-family subdivision (plus 4 outlots) on 116.54 acres. The site is located on the north side of Kalberer Road between Salisbury Street and Soldiers Home Road, in the City of West Lafayette, Wabash 5 (NW) 23-4

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey stated that the petitioner has requested permission to bond. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

- A. Variances
  1. A variance to reduce the required pavement width for all internal streets from 30-ft. to 28-ft. (measured from back of curb to back of curb).
- B. Conditions

**CONSTRUCTION PLANS** – The following items shall be part of the Construction Plans application and approval:

5. Indiana-American Water Company, Inc shall approve the water plans.
6. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District.
7. An on-site utility coordinating sheet shall be approved and signed-off by the non-government

utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

8. IDEM shall approve the mitigation of the delineated wetland on Lots 173 and 174.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

9. "No Vehicular Access" statements shall be platted along the Kalberer Road and Soldiers Home Road right-of-way lines, to the satisfaction of the City Engineer.
  10. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
  11. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
  12. The West Lafayette corporation line shall be labeled.
  13. The street addresses and County Auditor's Key Number shall be shown.
- SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:
14. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
  15. The purpose, ownership and maintenance of all outlots shall be specified.

James Hawley presented slides of the zoning map, aerial photo, sketch plan and preliminary plat.

Joseph T. Bumbleburg stated that this is a piece of a larger project that the Commission has seen slowly progress. He explained that the variance for the width of the roads was previously approved by the Commission and the City of West Lafayette for another part of this project and he asked for the approval for this section. He mentioned that this development, it is well planned, there is a new pond to handle the drainage and wetland that will be mitigated. He said that Purdue would hold ownership of the corner 8-acres so that there is not an illegal subdivision. He concurred with the conditions and asked for approval.

Donna Majewski, 3500 Hamilton Street, West Lafayette, IN, stated that in the original proposal the 8-acres in the corner was proposed as NB. She stated that by omitting that section, they have landlocked a piece that is not included in any subdivision and therefore cannot be used for homes. She explained that by not incorporating this piece of land, it allows for the possibility to reapply for a business zone.

Jack Rhoda stated that at this point the Commission can only discuss the subdivision portion and this petition has met all of the subdivision requirements.

Steve Schreckengast pointed out that there is a road to the west and therefore this piece is not landlocked.

Several members commented that there was access on three sides of the property.

Donna Majewski stated that there couldn't be access onto Soldiers Home Road because it is too dangerous. She mentioned that to add accesses to other sides would also be too dangerous.

Steve Schreckengast stated that before anything happens to that piece of property, there would be extensive discussion and input.

Mark Hermodson stated that regardless of the merits of the argument, at this point it is out of the control of the Commission, because the subdivision meets all the requirements.

The Commission voted by ballot 11 yes to 0 no to permit bonding.

The Commission voted by ballot 11 yes to 0 no to approve the request for variance.

The Commission voted by ballot 11 yes – 0 no for conditional primary approval of **S-3334—ARBOR CHASE BY THE LAKE & THE VILLAS (MAJOR-PRELIMINARY)**.

Jeff Kessler moved to take **S-3316—LAKESHORE SUBDIVISION, PHASE 2 (MAJOR-PRELIMINARY)** off the table. Mark Hermodson seconded and the motion carried by voice vote.

Sallie Fahey asked Jay Seeger for confirmation that if the staff makes a change to the conditions, that would alleviate the Commission having to vote on an amendment.

Jay Seeger responded affirmatively.

Sallie Fahey stated that staff is proposing conditional primary approval with five conditions, with a modification to #5 to read as follows:

At least one of the two streets in Paramount-Lakeshore Subdivision (Paramount Drive or Genoa Drive) shall be *recorded, bonded and constructed prior to issuance of an improvement location permit for any land in Block F as shown on the preliminary plat of Lakeshore Subdivision Phase 2.*

Jack Rhoda asked Joseph T. Bumbleburg if he concurred with that modification.

Joseph T. Bumbleburg responded affirmatively.

Sallie Fahey explained the reason for the modified wording was to ensure the Tippecanoe County Building Commissioner, had a clear understanding of what was required.

The Commission voted by ballot 11 yes – 0 no for conditional primary approval of **S-3316—LAKESHORE SUBDIVISION, PHASE 2 (MAJOR-PRELIMINARY).**

The Commission voted by ballot 11 yes to 0 no to permit bonding.

#### **V. ADMINISTRATIVE MATTERS**

Jay Seeger presented a Resolution that would allow the Executive Director to hire and fire staff in positions up to the Assistant Director without additional consent of the Commission. He explained that if the County Personnel Policy requires termination for particular conduct, the Executive Director would have the authority to do that immediately. He stated that the Commission would have to adopt the proposed Resolution in order for it to be in effect. He explained that this Resolution, once adopted, would give the Executive Director advance approval from the Commission to hire and fire positions below the Assistant Director.

Jack suggested that the Commissioners review this proposed Resolution and place it on the July agenda for a vote.

There were no objections.

#### **VI. APPROVAL OF THE JULY 2003 EXECUTIVE COMMITTEE AGENDA**

Jeff Kessler moved that the following subdivision petitions be placed on the July 2, 2003 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

**S-3349- MARKET SQUARE MINOR SUBDIVISION (MINOR –SKETCH)**

**RE-0015-RUTAN RIDGE SUBDIVISION (RURAL ESTATE PRELIMINARY)**

**RE-0016- BOOTHE FARMS SUBDIVISION (RURAL ESTATE PRELIMINARY)**

Mark Hermodson seconded and the motion carried by voice vote.

#### **VII. DETERMINATION OF VARIANCES – Area Board of Zoning Appeals**

*None*

#### **VIII. DIRECTOR'S REPORT**

James Hawley presented copies of the two advertisements for the Executive Director position that were posted on the Internet. He stated that as per the suggestion of Karl Rutherford and a few other Commission members, he posted the advertisement on an additional website. He requested a post-approval to do so in order to be reimbursed for the fee.

Karl Rutherford moved to grant post-approval for the above-described request. Mark Hermodson seconded and the motion passed by voice vote.

#### **IX. CITIZENS' COMMENTS AND GRIEVANCES**



Steve Clevenger stated that it has been 2.5 years since he brought up the issue of the Wabash Township Land Use Plan. He said that this issue was planned for review after the UZO was adopted. He mentioned that now that the route for the new 231 has been determined, this is a good time to start the review. He stated that he understood that the Commission has a very busy schedule, but this issue has been on hold for 5 years.

Karl Rutherford agreed with Steve Clevenger.

Several members voiced their agreement.

Steve Schreckengast stated that at this time a 14-member committee was in the process of being assembled to take on that review process.

Sallie Fahey stated that she could look at that issue once the schedule for the Ordinance Committee was prioritized.

Steve Schreckengast stated that at the next Ordinance Committee meeting, he would like to see a list of the issues scheduled.

#### **X. ADJOURNMENT**

Jeff Kessler moved for adjournment. Jan Mills seconded and the motion carried by voice vote.

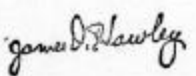
The meeting was adjourned at 10:00 P.M.

Respectfully submitted,



Michelle D'Andrea  
Recording Secretary

Reviewed by,



James D. Hawley  
Executive Director